

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2789 – SB 2725

May 4, 2010

SUMMARY OF AMENDMENTS (017783, 017979, 017961, 017981): Deletes the language of the original bill. Amendment 017783 creates a violent juvenile sexual offender registry. Requires that verbal and written notice of the violent juvenile sexual offender registration requirements be given to children accused of a violent juvenile sexual offense prior to a hearing to determine delinquency. Requires any person adjudicated delinquent for a violent juvenile sexual offense after July 1, 2010 to register as a violent juvenile sexual offender. Defines a “violent juvenile sexual offender” as any offender, 14 to 18 years old, who has been adjudicated delinquent for any act that constitutes a violent juvenile sexual act and has been determined by a court exercising juvenile jurisdiction to be at a high risk of re-offending or has a prior adjudication of delinquency for a violent juvenile sexual offense. Requires a violent juvenile sexual offender to remain on the registry for 25 years after his or her active supervision or probation is concluded. Requires offenders, who are eligible, to obtain and have on their possession at all times, a valid drivers license issued by the Department of Safety. The juvenile offender will not be required to pay the administrative fee until the offender reaches the age of 18.

Requires all violent juvenile sexual offenders to report in person to their registering agency at least once during the months of March, June, September, and December to update the offender’s fingerprints, palm prints, and photograph.

Amendment 017979 requires juvenile courts to determine if a juvenile should be placed on the sex offender registry upon a delinquent adjudication for a violent juvenile sexual offense. Authorizes juvenile courts to consider the expert opinion of a qualified mental health professional and evidence showing the juvenile has committed one or more violent juvenile sexual offenses.

Amendment 017961 requires the Sex Offender Treatment Board (SOTB) to review and determine, upon written request of a violent juvenile sexual offender, the necessity for an offender to remain on the sexual offender registry (SOR). Authorizes offenders to request a case review within 12 months of their 19th birthday and again every five years until the offender has been on the SOR for 25 years. An evidentiary hearing will be held on each request to make a factual determination of the used. The SOTB will make written findings.

Amendment 017981 requires courts to transmit an offender’s information to the Tennessee Bureau of Investigation (TBI) within 48 hours of a delinquent adjudication as a violent juvenile sexual offender for inclusion on the registry and after entry a decision on any appeal or the time for filing an appeal has expired.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue - \$7,100/Recurring/TBI Fund
Increase State Expenditures – \$2,000/One-Time
\$36,300/Recurring

Increase Federal Expenditures - \$21,600/Recurring

Increase Local Expenditures – Exceeds \$100,000/One-Time*

Other Fiscal Impact – According to TBI, failure to pass this legislation may result in a 10 percent decrease in the Byrne Grant funding for the state of Tennessee. In federal FY10, Tennessee is eligible to receive \$50,380,636 in Byrne Grant funding.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Revenue – \$7,100/Recurring/TBI Fund
Increase State Expenditures – \$2,000/One-Time/TBI Fund
\$2,700/One-Time/Sex Offender Treatment Fund
\$109,600/Recurring/
Sex Offender Treatment Fund
\$1,000/Recurring/General Fund

Increase Federal Expenditures – \$700/Recurring

Increase Local Expenditures – Exceeds \$100,000/One-Time*

Other Fiscal Impact – According to the Tennessee Bureau of Investigation, failure to pass this legislation may result in a 10 percent decrease in the Byrne Grant funding for the state of Tennessee. In federal FY10, Tennessee is eligible to receive \$50,380,636 in Byrne Grant funding.

Assumptions applied to amendments:

- According to TBI, the police or sheriff's department within the offender's current county of residence is the offender's registering agency.

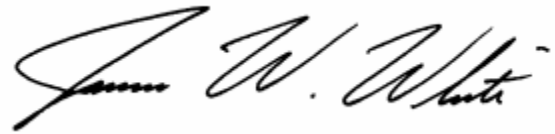
- Based on information previously provided by the Department of Children's Services (DCS), an average of 47 juvenile offenders will be transported four times a year to the Police or Sheriff's headquarters within the county in which the offender is located to update fingerprints, palm prints, and photographs.
- Estimate assumes that on average, each transport will be a total of 20 miles and cost \$0.45 per mile resulting in an increase in expenditures of \$1,692 (47 juveniles x 4 transports x 20 miles x \$0.45 per mile). Of the \$1,692, seven percent (\$118) will be Title IV-E Federal Funds; 49 percent (\$829) will be through TennCare; and \$745 will be state funds. Of the TennCare funds, \$284 are state funds at a rate of 34.22 percent and \$545 are federal funds at a 65.78 percent match rate.
- DCS will not require additional staff to transport youth. Transportation can be accommodated within existing department resources without an increased appropriation or reduced reversion.
- The total increase in expenditures for transporting the juveniles is estimated at \$1,000 in state funds and \$700 in federal funds.
- According to TBI, it will be necessary to add an additional crime category to the sexual offender registry resulting in a one-time cost of \$2,000 for computer programming.
- According to the Administrative Office of the Courts (AOC), the courts do not have access to a database that provides a list of sex offenses or violent sex offenses for which a minor has been convicted in other states. The majority of the courts do not have the equipment necessary to update the juvenile's fingerprints, palm prints, or photographs. One-time expenditures for local governments to purchase the necessary equipment and modify the computer systems are estimated to exceed \$100,000 statewide.
- Offenders under the age of 18 will be exempted from \$150 registration fee resulting in recurring decrease in state revenue to the TBI fund of \$7,050 (\$150 x 47 offenders).
- Notifying juveniles charged as violent juvenile sexual offenders of all SOR registration requirements can be accommodated within the existing resources of state or local registering agencies and will result in a not significant increase to state or local expenditures.
- According to the Department of Correction, assigning the Sex Offender Treatment Board to review an offender's status on the SOR will require the department to hire one attorney, one administrative position, and a contract court report.
- One new attorney will receive a salary of \$45,200 plus benefits of \$15,368 resulting in an increase in expenditures of \$60,568. One new administrative position will receive a salary of \$32,500 plus benefits of \$11,050 resulting in an increase in expenditures of \$43,550. Estimate assumes a court reporter will be required for 20 cases for a contracted amount of \$275 per day resulting in a total increase in expenditures of \$5,500. Total recurring increase in expenditures to the sex offender treatment fund is \$109,618 (\$60,568 + \$43,550 + \$5,500).
- There will be a \$2,700 one-time increase in expenditures to the sex offender treatment fund to purchase computers, law books and other equipment.

- The federal “Adam Walsh Child Protection and Safety Act of 2006” requires states to maintain a sex offender registry and to include convicted sex offenders age 14 and above on the registry. Section 125 of the Act subjects a state to a mandatory 10 percent reduction in Byrne grant funds if the state fails to “substantially implement” the registry requirements. Failure to include juvenile offenders age 14 and above in Tennessee would jeopardize approximately \$5,038,063 in federal Byrne Grant funds based upon the federal FY10 funding level ($\$50,380,636 \times 10\% = \$5,038,063$).

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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